IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5539 to 5543 & 5545 to 5547 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PRIYANK QUARRY WORKS PVT. LTD.

Versus

COLLECTOR

Appearance:

1. Special Civil Application No. 5539 of 2000
   M/S TRIVEDI & GUPTA for Petitioners
   MR HM BHAGAT for Respondent No. 1
   NOTICE SERVED BY DS for Respondent No. 2

2. Special Civil ApplicationNo 5542 of 2000
   M/S TRIVEDI & GUPTA for Petitioners
   MR HM BHAGAT for Respondent No. 1
   NOTICE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 27/07/2000

ORAL JUDGEMENT

Rule. Mr.Bhagat waives service of rule.

2. In this group of petitions under Article 226 of the Constitution, the petitioners have challenged the notice dated 7.6.2000 (at annexure "C" to the petition) issued by the Collector, Sabarkantha calling upon the petitioners to pay the amount for which the respective petitioners had given separate cheques towards the payment of royalty for extracting minerals from the mines in question for which lease is given to the petitioners. The petitioners were informed by the said notice that if the amounts as aforesaid were not paid, action will be taken to suspend the the lease and that the petitioners will also be prevented from extracting the minerals.

3. It is the case of the petitioners that they had paid the amounts of royalty as required by law and that the petitioners do not owe any amount to the respondents. It is further submitted that the officers of the Flying Squad had come and without giving any opportunity of hearing to the petitioners cheques for following amounts were taken from the petitioners:

Spl.C.A.No.	Party's name	Amount recovered
5539/2000	M/s Priyanka Quarry Works	Rs.60,000/-
5540/2000	M/s Raghuvir Quarry Works	Rs.45,000/-
5541/2000	M/s Krishna Quarry Works	Rs.87,069/-
5542/2000	M/s Gayatri Krupa Stone Industries	Rs.72,108/-
5543/2000	M/s Mahalaxmi Quarry Works	Rs.72,354/-
5545/2000	M/s Ambica Quarry Works	Rs.31,500/-
5546/2000	M/s Girija Quarry Works	Rs.44,285/-
		Rs.43,120/-
5547/2000	M/s New Gayatri Quarry Works	Rs.69,411/-
	and one another	

4. In response to the notice issued by the Court, no affidavit-in-reply is filed but Mr.Bhagat, learned advocate for respondents has sought to rely upon the statements of proprietors/partners/employees of the petitioner-firms. It is further submitted by Mr.Bhagat that the petitioners were earlier paying the royalty on the basis of finished product after minerals extracted from the lands in question though royalty is required to be paid on the basis of minerals extracted and not on the basis of finished products.

5. The learned advocate for the petitioners does not agree with the aforesaid stand. It is not necessary to

go into the merits of the contentions raised by other side as this Court proposes to dispose of these petitions by directing the respondents to give the petitioners an opportunity of hearing and thereafter determine the amount of royalty payable by each of the petitioners.

6. In view of the above discussion, the following order is passed:

(i) Impugned notice dated 7.6.2000 in each petition is quashed without prejudice to the powers of the respondents to levy and recover the amounts of royalty in accordance with law.

(ii) The Collector, Sabarkantha will issue individual notices to petitioners calling upon them to remain present before him with all relevant records so that the officers of the concerned department can calculate the amounts of royalty/deficit royalty, if any, payable by the petitioners.

(iii) The petitioners shall extend utmost cooperation by keeping the record available at the time of hearing and also person conversant with the affairs of the petitioners shall remain present.

(iv) After the amount of royalty/deficit royalty payable by the petitioners is so determined by the Collector(after giving opportunity of hearing to the petitioners, as aforesaid) the petitioners shall pay the said amount within one month from the date on which the petitioners are served with the notice of demand.

7. It is clarified that the aforesaid directions are issued, without prejudice to the rights and contentions of the petitioners to challenge the final orders, if any, before appropriate appellate authority.

8. All the petitions are accordingly disposed of in terms of the aforesaid directions. Rule in each petition is made absolute to the above extent. There shall be no order as to costs. Direct Service is permitted.

27.7.2000 (M.S.SHAH,J)